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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,384	05/07/2001	Thang C. Nguyen	062891.0563	2723

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EXAMINER
BATES, KEVIN T

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/850,384	NGUYEN ET AL.
	Examiner	Art Unit
	Kevin Bates	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 June 2006</u>.
2a)☐ This action is **FINAL.**　　2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-45</u> is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-45</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☐ All　b)☐ Some * c)☐ None of:
　　　　1.☐ Certified copies of the priority documents have been received.
　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

Response to Amendment

This Office Action is in response to a communication made on June 16, 2006.

Claims 1-45 are pending in this application.

In view of the Supplemental Appeal Brief filed on June 16, 2006,

PROSECUTION IS HEREBY REOPENED. Park (5974134) in view of Kikuchi

(6570879) set forth below.

To avoid abandonment of the application, appellant must exercise one of the

following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed

by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and

appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth

in 37 CFR 41.20 have been increased since they were previously paid, then appellant

must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by

signing below:

Saleh Najjar

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15 and 45 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Cclaims 15 and 45 discloses a call manager coupled to a packet based network; there is no medium that allows the functional descriptive material "structurally and functionally interrelated to the medium" and statutory.

Descriptive material can be characterized as either "functional descriptive material" or" nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re

Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)(discussing

patentable weight of data structure limitations in the context of a statutory claim to a

data structure stored on a computer readable medium that increases computer

efficiency) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to

computer having a specific data structure stored in memory held statutory product-by-

process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data

structure per se held nonstatutory). MPEP § 2106.1 [R-5] (Rev. 5, Aug. 2006).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 6-8, 11-17, 22-24, 27-31, 36-38, and 41-45 are rejected under 35

U.S.C. 103(a) as being unpatentable over Park (5974134) in view of Kikuchi

(6570879).

Regarding claims 1, 15, 31, and 45, Park teaches a method for sharing

distributed media resources, comprising:

determining at a first call manager that a telephony device controlled by the first

call manager requires the use of a media resource device (Column 4, lines 1 – 6, where

the first call manager is the call processor and in response to a phone call the call

processor knows the requisite resources for that call); and

communicating an allocation request to a device process associated with the

selected media resource device, the device process executing at a second call manager

controlling the selected media resource device (Column 4, lines 6 – 14, where the

second call manager is the resource manager, the call processor requests the required

resources from the resource manager, which is in control of all call resources).

Park does not explicitly indicate that the first call manager selects an appropriate

media resource device from a media resource group list associated with the telephony

device.

Kikuchi teaches a system of receiving a resource device list at a call manager

and selecting a resource device from said list associated with the telephony device

(Column 5, lines 44 – 57, where the server in charge of resources obtains a request for

a resource, telephone connection, and sends a connection ID list, which is a list from

which resources that the call device needs can choose).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to allow the first call processor to handle the selection of the

resource device in Park's system in order to allow that call manager to ensure the

selected resource device is of the correct resource type (correct quality of service) to fill

the telephony device's resource needs.

Regarding claims 6, 22, and 36, Park teaches the method of claims 1, 15, and

31, wherein: the media resource group list includes a plurality of device names each

identifying a media resource device (Column 3, lines 50 – 52, where Park discloses a

table that identifies the required resources); and selecting an appropriate media

resource device comprises selecting a device name from the media resource group list (Column 3, lines 62 – 65, where the resource manager access the table to select appropriate resources).

Regarding claims 7, 23, and 37, Park teaches the method of claims 6, 22, and 36, wherein: accessing a mapping table (Column 3, lines 44 – 46, the management table) to determine a process identification (PID) associated with the selected device name, the PID identifying a device process associated with the media resource device identified by the device name (Column 3, lines 38 – 49, where process identifiers are assigned to different call processes); and communicating the allocation request to the device process using the PID (Column 3, lines 63 – 65, where the allocation request is issued).

Regarding claims 8, 24, and 35, Park teaches the method of claims 1, 15, and 31.

Park does not explicitly indicate that the media resource group list comprises one or more media resource groups, each media resource group including a list of device names of one or more media resource devices and a device type associated with each device name; and selecting an appropriate media resource device from the media resource group list comprises selecting a device name associated with a device type that is required by the telephony device.

Kikuchi teaches the media resource group list comprises one or more media resource groups, each media resource group including a list of device names of one or more media resource devices and a device type associated with each device name; and

selecting an appropriate media resource device from the media resource group list comprises selecting a device name associated with a device type that is required by the telephony device (Column 5, lines 35 – 57; Column 6, lines 41 – 53, where the device type is the type of QoS the device is requesting, and there are different lists based on the different QoS priorities that the call processor can request).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the first call processor to handle the selection of the resource device in Park's system in order to allow that call manager to ensure the selected resource device is of the correct resource type (correct quality of service) to fill the telephony device's resource needs.

Regarding claims 11, 27, and 41, Park teaches the method of claims 8, 24, and 35.

Park does not explicitly indicate that one or more of the media resource groups include only media resource devices for use by a particular class of user.

Kikuchi teaches that one or more of the media resource groups include only media resource devices for use by a particular class of user (Column 5, lines 35 – 40, where the class of user is the QoS requirements of the connection request).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the first call processor to handle the selection of the resource device in Park's system in order to allow that call manager to ensure the selected resource device is of the correct resource type (correct quality of service) to fill the telephony device's resource needs.

Regarding claims 12, 28, and 42, Park teaches the method of claims 1, 15, and

31, wherein receiving an allocation response from the device process indicating that the

selected media resource device is available (Column 4, lines 8 – 14, where the resource

manager accesses the management table and if the resource has not already been

allocated, it updates the management table with the new allocation); and establishing a

media streaming connection between the telephony device and the media resource

device (Column 4, lines 1 – 14, where if there is no problems the connection is setup for

the subscriber).

Regarding claims 13, 29, and 43, Park teaches the method of claims 1, 15, and

31.

Park does not explicitly indicate receiving an allocation response from the device

process indicating that the selected media resource device is unavailable; selecting a

second appropriate media resource device from the media resource group list; and

communicating an allocation request to a second device process associated with the

second media resource device.

Kikuchi discloses receiving an allocation response from the device process

indicating that the selected media resource device is unavailable; selecting a second

appropriate media resource device from the media resource group list; and

communicating an allocation request to a second device process associated with the

second media resource device (Column 6, line 57 – Column 7, line 15).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to allow the first call processor to handle the selection of the

resource device in Park's system in order to allow that call manager to ensure the selected resource device is of the correct resource type (correct quality of service) to fill the telephony device's resource needs.

Regarding claims 14 and 44, Park teaches the method of claims 1 and 31.

Park does not explicitly indicate receiving the media resource group list associated with the telephony device from the telephony device.

Kikcuhi teaches receiving the media resource group list associated with the telephony device from the telephony device (Column 5, lines 39 – 46, where the connection list is sent to the telephony device and chosen by that device).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the first call processor to handle the selection of the resource device in Park's system in order to allow that call manager to ensure the selected resource device is of the correct resource type (correct quality of service) to fill the telephony device's resource needs.

Regarding claim 16, Park teaches the method of claim 15, wherein the control module comprises a call control module (Column 3, lines 22 – 25).

Regarding claim 17, Park teaches the method of claim 15, wherein the control module comprises a media control module (Column 3, lines 25 – 27).

Regarding claim 30, Brown teaches the method of claim 15.

Park does not explicitly indicate that the control module is further operable to: receive the media resource group list associated with the telephony device from the

telephony device; and communicate the media resource group list to the media

resource manager.

Kikcuhi teaches receiving the media resource group list associated with the

telephony device from the telephony device and communicate the media resource

group list to the media resource manager (Column 5, lines 39 – 46, where the

connection list is sent to the telephony device and chosen by that device).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to allow the first call processor to handle the selection of the

resource device in Park's system in order to allow that call manager to ensure the

selected resource device is of the correct resource type (correct quality of service) to fill

the telephony device's resource needs.

Claims 3-5, 19-21, and 33-35 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Park in view of Kikcuhi, and in further view of Gilman

(5757781).

Regarding claims 3, 19, and 33, Park teaches the method of claims 1, 15, and

31.

Park does not explicitly indicate determining that the telephony device requires

the use of a media resource device comprises determining that the telephony device

desires to initiate a conference call.

Gilman teaches a telecommunications system that allocates media resources to

telephony devices which includes allowing the telephones to use conference calling

(Column 5, lines 37 – 43; lines 53 – 66).

It would have obvious to one of ordinary skill in the art at the time the invention was made to use Gilman's teachings of having conference calls as a media resource in Park's system in order to allow the expansion of just point-to-point calls into calls involving more parties, while using the resource allocation advantages of a dynamic system (Column 2, lines 5 – 22).

Regarding claims 4, 20, and 34, Park teaches the method of claims 1, 15, and 31.

Park does not explicitly indicate that determining the telephony device requires the use of a media resource device comprises determining that a media termination point is required to maintain a communication session with the telephony device.

Gilman teaches a telecommunications system that allocates media resources to telephony devices which includes using terminating means into an established communication (Column 2, lines 55 – 61).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Gilman's teaching of termination points as a media resource in Park's system in order to allow users more operations and choices for telecommunicating including hold, transfer, conference and drop (Column 9, lines 51 – 54).

Regarding claims 5, 21, and 35, Park teaches the method of claims 1, 15, and 31.

Park does not explicitly indicate that determining the telephony device requires

the use of a media resource device comprises determining that the telephony device

has been placed on hold and may be connected to a music-on-hold server.

Gilman teaches a telecommunications system that allocates media resources to

telephony devices which includes allowing music or video to be played while a

telephony device is on hold (Column 10, lines 20 – 24).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to use Gilman's teaching a media resource to play music or video

while a telephone is on hold in Park's system in order to provide additionally features to

a user, while allowing those features to be dynamically allocated (Column 1, lines 48 –

55).

Claims 2, 18, and 32 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Park in view of Kikcuhi, and in further view of Malomsoky

(6512918).

Regarding claims 2, 18, and 32, Park teaches the method of claims 1, 15, and

31, wherein determining that the telephony device requires the use of a media resource

device comprises determining that the telephony device desires to establish a

telecommunication with a second telephony device (Column 4, lines 1 – 6)

Park does not explicitly indicate determining that a transcoder is required to

establish the telecommunication.

Malomsoky discloses a call setup system that determines if a call needs a

transcoder and selects a transcoder from a pool of transcoder resources to allocate to

the call (Column 2, lines 32 – 39).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to allow the a call to make use of a transcoder as a resource in

Park's network to allow the telephony network be adaptable and maintain quality of

service (Column 1, line 62 – Column 2, line 5).

Claims 9, 25, and 39 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Park in view of Kikcuhi, and in further view of Holland

(6304645).

Regarding claims 9, 25, and 39, Park teaches the method of claims 8, 24, and

35.

Park does not explicitly indicate that the media resource groups are ordered in

the media resource group list; the device names are ordered in each media resource

group; and selecting an appropriate media resource device comprises searching

through the media resource groups and the device names in each media resource

group in order till a device name associated with the required device type is found.

Kikuchi teaches the media resource groups are ordered in the media resource

group list (Column 5, lines 35 – 40); selecting an appropriate media resource device

comprises searching through the media resource groups in each media resource group

in order till a device name associated with the required device type is found (Column 5,

lines 35 – 57; Column 6, lines 41 – 53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the first call processor to handle the selection of the resource device in Park's system in order to allow that call manager to ensure the selected resource device is of the correct resource type (correct quality of service) to fill the telephony device's resource needs.

Holland teaches a system of ordering resource devices in a list in each media resource group, and selecting the resource based on searching the resource devices in order (Column 4, lines 15 – 29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Holland's teaching of resource priority in order to attempt to optimize resource selection based on resource location.

Claims 10, 26, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Kikcuhi, and in further view of Shaffer (6687234).

Regarding claims 10, 26, and 40, Park teaches the method of claims 8, 24, and 38.

Park does not explicitly indicate that one or more of the media resource groups include only media resource devices located in the same geographic area.

Shaffer teaches using geographic locations of media resources in determining what applications use what media resource (Column 2, lines 11 – 26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take geographic location into consideration while determining optimal telecommunication resource allocation (Column 2, lines 49 – 60).

Response to Arguments

Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 6460082 issued to Lumelsky, because it teaches allocating media resource devices.

U. S. Patent No. 6253225 issued to Nakahara, because it teaches a resource management table including PID information.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.
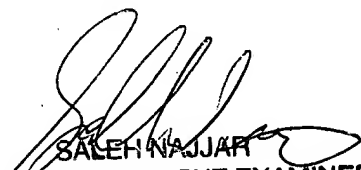
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KB
October 15, 2006

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER